

PATENT  
ATTORNEY DOCKET NO. 04585/00200R

Certificate of Mailing: Date of Deposit: April 26, 2001

I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Michelle P. Chicos

Printed name of person mailing correspondence

*Michelle P. Chicos*

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Andrew Goodearl et al.

Art Unit: 1647

Serial No.: 08/734,592

Examiner: S. Gucker

Filed: October 22, 1996

Customer No.: 21559

Title: GLIAL MITOGENIC FACTORS, THEIR PREPARATION AND USE

Assistant Commissioner for Patents  
Washington, D.C. 20231

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TERMINAL DISCLAIMER UNDER §1.321 and 37 CFR §3.73(b)

Pursuant to 37 CFR §1.321(b) Cenes Pharmaceuticals, Inc., (formerly known as Cambridge NeuroScience, Inc., copy of Change of Name certificate attached) and Ludwig Institute for Cancer Research, the assignees of the entire right, title and interest in the above application seek to disclaim the terminal portion of the term of the patent to be granted on the application. This terminal disclaimer is binding on the grantee and its successors or assigns.

Pursuant to 37 CFR §1.321(b)(1), this terminal disclaimer is signed by an attorney of record.

Pursuant to 37 CFR §1.321(b)(2), Cenes Pharmaceuticals, Inc., and Ludwig Institute for Cancer Research hereby waive and disclaim the terminal portion of the term of the entire patent to be granted upon the above identified application subsequent to the expiration date of U.S. Patent No. 5,602,096. Cenes Pharmaceuticals, Inc., and Ludwig Institute for Cancer Research do not disclaim any terminal part of any patent granted on the above identified application prior to the expiration date of the full statutory term of U.S. Patent No. 5,602,096 in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title as stated above.

Pursuant to 37 CFR §1.321(b)(3) and 37 CFR §3.73(b), the undersigned attorney of record certifies that Cenes Pharmaceuticals, Inc., and Ludwig Institute for Cancer Research, corporations, are the assignees of the entire right, title, and interest in the above application by virtue of:

- Assignments from the inventors of the patent application identified above. The assignment from inventors Andrew Goodearl, Paul Stroobant, Luisa Minghetti, Michael Waterfield, and Ian Hiles to Ludwig Institute for Cancer Research was recorded in the Patent and Trademark Office at Reel 6556, Frame 0263 on May 26, 1993. The assignment from inventors Mark Marchionni and Maio Su Chen to Cambridge NeuroScience was recorded in the Patent and Trademark Office act Reel 6556, Frame 0262 on May 26, 1993.

The undersigned attorney of record has reviewed all the documents in the chain of title of the above identified application and to the best of the undersigned's knowledge and belief, title is in Cenes Pharmaceuticals, Inc., and Ludwig Institute for Cancer Research.

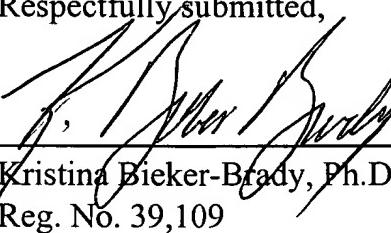
Pursuant to 37 CFR §1.321(b)(4), enclosed is a check for \$40.00 for the fee set forth in 37 CFR §1.20(d).

Further, pursuant to 37 CFR §1.321(c)(3), this terminal disclaimer is filed to obviate a double patenting rejection in the above patent application. Any patent granted on the above application or any resulting patent subject to reexamination proceedings shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection.

If there are any additional charges, or any credits, please apply them to Deposit Account Number 03-2095.

Date: April 26, 2001

Respectfully submitted,

  
Kristina Bieker-Brady, Ph.D.  
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PATENT TRADEMARK OFFICE

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State of Delaware  
Office of the Secretary of State

PAGE 1

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "CAMBRIDGE NEUROSCIENCE, INC.", CHANGING ITS NAME FROM "CAMBRIDGE NEUROSCIENCE, INC." TO "GENES PHARMACEUTICALS, INC.", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF JANUARY, A.D. 2001, AT 9 O'CLOCK A.M.  
A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

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Harriet Smith Windsor  
Secretary of State

AUTHENTICATION: 0922053

DATE: 01-18-01

SUBJECT: DECISION ON TERMINAL DISCLAIMERS INFORMAL FORM

DATE: 10/10

APPL. S.N.: 081734592

TO EXAMINER: S. Gucker

ART UNIT: 1647

MOSE MONTGOMERY ROOM 11E18

MAILROOM DATE 4-30-1

AFTER FINAL YES ✓ NO        NUMBER OF T.D(S). FILED 1

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this Informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE IN LEFT IN FILE.

The T.D. is PROPER and has been recorded. (See 14.23).

The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

The recording fee of \$\_\_\_\_\_ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

Application Examiner has not processed T.D. fee. (See fee authorization).

The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

It is directed to a particular claims(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

The person who signed the terminal disclaimer:

has failed to state his/her capacity to sign for the business entity, (See 14.28).

is not recognized as an officer of the assignee, (See 14.29 and possibly 14.29.01).

No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

The T.D. is not signed. (See 14.26, 14.26.3). or 14.26.03 if TD is not signed by all the owners.

Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed) is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)

Other: \_\_\_\_\_

Suggestion to request refund of \$\_\_\_\_\_. (See 14.35, 14.36).

EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALITIES MAY BE FAXED IN TO THE GROUP

FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:

Sample of a TD over a pending application and assignee Certificate (See 14.37).

Sample of a TD over a prior patent and assignee Certificate (See 14.38).

Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)